IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 8TH JUNE, 2007 / 18TH JYAISHTA, 1929

WP(C).No. 31031 of 2006(T)

PETITIONER:

PRABAKARAN, S/O.LATE AMMALUKUTTY AMMA,
AGED 67 YEARS, DEFENCE PENSIONER, MULLERY,
THIRUVALATHOOR AMSAM DESAM, KODUMBA VILLAGE,
PALAKKAD TALUK, PALAKKAD DISTRICT NOW RESIDING
AT 255, HEMAPRABHA, CHANDRA NAGAR, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVT. DEPARTMENT OF
REVENUE, GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE DISTRICT COLLECTOR, PALAKKAD.

3. THE VILLAGE OFFICER,
KODUMBA VILLAGE, PALAKKAD.

4. THE DEPUTY DIRECTOR OF SURVEYS,
PALAKKAD.

BY GOVERNMENT PLEADER SRI.V.T.K.MOHANAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.31031 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the registered sale deed No.4876 of 1988 of S.R.O., Palakkad.

Ext.P2: Copy of the purchase certificate No.378 of 1977 from Special Munsiff Land Tribunal, Ottappalam issued to Thathakkutty Amma.

Ext.P3: Copy of the order of the Special Munsiff Land Tribunal, Ottappalam relating to Ext.P2 Purchase Certificate.

Ext.P4: Copy of the basic tax paid receipt dtd.6.2.1982 issued by the 3rd respondent.

Ext.P5: Copy of the possession certificate dtd.29.1.1990 by the 3rd respondent.

Ext.P6: Copy of the building tax paid receipt dtd.21.3.1991.

Ext.P7: Copy of the ownership certificate dtd.19.2.1994 issued by the Kodumba Panchayat.

Ext.P8: Copy of the certificate issued by the K.S.E.B.

Ext.P9: Copy of the certificate dtd.22.6.1998 issued by the K.S.E.B.

Ext.P10: Copy of the representation dtd.19.8.1998 submitted by the petitioner before the District Collector, Palakkad.

Ext.P11: Copy of the order dtd.22.5.1998 of the Resurvey Superintendent, Pattambi.

Ext.P12: Copy of the petition dtd.27.2.2006 submitted by the petitioner before R4.

Ext.P13: Copy of the order dtd.31.8.2006 of R4.

-True Copy-

P.A.to Judge.

S.SIRI JAGAN, J.

W.P(C) NO. 31031 OF 2006

Dated this the 8th day of June, 2007

J U D G M E N T

The petitioner is the owner of 2 acres and 69 cents of land in old Survey No.98 corresponding to new Survey No.73/7 of Kodumba Village. The petitioner approaches this Court for correcting the incorrect classification of the property as a pond in the village records, to collect basic tax and issue possession certificate in respect of the property. It appears that a portion of the property was used as a pond thirty years back. Thereafter, the petitioner's predecessor-in-interest obtained Ext.P2 Purchase Certificate in respect of the property. The pond has been filled up even prior to the issue of Purchase Certificate in favour of the predecessor-in-interest of the petitioner. Now the respondents are refusing to issue a certificate showing that the land is a dry land insisting that as the revenue records show the nature of the land as a pond, such a certificate cannot be issued. The petitioner therefore seeks the following reliefs:-

> "i) Call for the records leading to Ext.P13 and quash the same issuing a writ in the nature of certiorari;

ii) Issue a writ in the nature of mandamus commanding the 3rd respondent to collect from the petitioner basic tax in respect of the property covered by Ext.P1 forthwith and issues him a possession certificate immediately;

iii) Issue a writ in the nature of mandamus commanding respondents 3 and 4 to make necessary corrections in the village records as well as B.T.R. describing the petitioner's property covered by Ext.P1 as 'Paramba';

iv) Issue such other writ, order or direction which are deemed fit and proper on the facts and circumstances of the case and in the interest of justice."

2. The respondents have filed a counter affidavit in which they have stated that as per the revenue records, the land is shown as a pond and therefore no certificate can be issued describing the land as dry land.

3. I have heard learned counsel for the petitioner as also the learned Government Pleader. It is not disputed by the respondents that as on today, the land in question is a dry land. They also have no case that the pond has been filled up in violation of any provisions of law. That being so, when the character of the land changes and no violation of law can be attributed to the petitioner for such change, the respondents are duty bound to make appropriate corrections in the revenue

records regarding the nature of the land and issue Purchase Certificate to the petitioner.

4. In the above circumstances, the writ petition is disposed of as follows:-

The third respondent shall take appropriate steps to correct the revenue records showing the nature of the land as dry land instead of pond and issue a certificate to the petitioner showing the nature of the land as dry land. This process shall be completed within a period of two months from the date of receipt of a copy of this judgment.

S.SIRI JAGAN,
Judge

Mbs/